

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTONIO HALSELL,

Defendant-Appellant.

UNPUBLISHED

February 25, 2003

No. 238192

Wayne Circuit Court

LC No. 01-004367-01

Before: Kelly, P.J. and White and Hoekstra, JJ.

MEMORANDUM.

Defendant appeals as of right his convictions for two counts of assault with intent to commit great bodily harm less than murder, MCL 750.84, for which he was sentenced to concurrent sentences of 152 to 480 months in prison. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues on appeal that the prosecution failed to present sufficient evidence of a specific intent to commit great bodily harm. We disagree. In a bench trial, we review a trial court's factual findings for clear error. *People v Everard*, 225 Mich App 455, 458; 571 NW2d 536 (1997).

The elements of assault with intent to do great bodily harm less than murder, a specific intent crime, are: (1) an attempt or threat with force or violence to do corporal harm to another (an assault), and (2) an intent to do great bodily harm less than murder. *People v Parcha*, 227 Mich App 236, 239; 575 NW2d 316 (1997). Specifically, the defendant must possess an "intent to do serious harm of an aggravated nature." *People v Compian*, 38 Mich App 289, 301; 196 NW2d 353 (1972). Circumstantial evidence and the reasonable inferences that arise from the evidence can constitute satisfactory proof of the elements of an offense, including intent. *People v Noble*, 238 Mich App 647, 655; 608 NW2d 123 (1999); *People v Eggleston*, 149 Mich App 665, 668; 386 NW2d 637 (1986). Additionally, the prosecutor need not negate every reasonable theory of innocence, but must only prove his own theory beyond a reasonable doubt in the face of whatever contradictory evidence the defendant provides. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

At trial, the two complainants testified that they were involved in a near collision with defendant's truck after which the defendant became enraged. He took a metal bar from the rear of his truck and struck the passenger window of the complainants' car, shattering the glass. The

complainants testified that the occupant of the seat would have been struck in the head with the bar had she not moved away from the window and had the door pillar not protected her. Her husband attempted to open the trunk of the car in order to find something to protect himself and defendant then threw a portable radio at him and hit him in the back. Defendant next obtained an automobile battery from the rear of his truck and threw it into the rear window of the car, narrowly missing the couple's small son.

Given the complainants' testimony, the trial court properly found that defendant intended great bodily harm to both complainants, notwithstanding the facts that (1) he did not actually harm either of them and (2) attacked the male complainant with what would normally not be considered a deadly weapon. The evidence of defendant's "enragement" at the time of the assault, the use of the metal bar and car battery, and the unprovoked nature of the attack support the trial court's finding that defendant intended to seriously injure both complainants.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Helene N. White
/s/ Joel P. Hoekstra